

04-18-02

RCE/3761

PTO/SB/30 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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# REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:  
Commissioner for Patents  
Box RCE  
Washington, DC 20231

Application Number	09/818,228
Filing Date	March 27, 2001
First Named Inventor	Kent L. Christopher
Art Unit	3761
Examiner Name	M. Patel
Attorney Docket Number	1246/39(a)

#9/13  
OK  
4-25-02

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

## 1. Submission required under 37 CFR 1.114

- a. ☒ Previously submitted
- i. ☒ Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on March 19, 2002  
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- iii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☒ Other Fee Transmittal

## 2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

## 3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 04-1414
- i. ☐ RCE fee required under 37 CFR 1.17(e) 04/22/2002 GTEFFERA 00000017 09818228
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17) 01 FC:279 370.00 OP
- iii. ☐ Other \_\_\_\_\_
- b. ☒ Check in the amount of \$ 370 enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

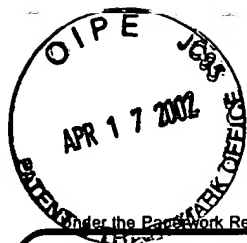
Name (Print/Type)	Thomas S. Birney	Registration No. (Attorney/Agent)	30,025
Signature	<i>Thomas S Birney</i>	Date	April 17, 2002

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to: Commissioner For Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below. Express EV 022886953 US

Name (Print/Type)	Thomas S. Birney - 30,025		
Signature	<i>Thomas S Birney</i>	Date	April 17, 2002

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PTO/SB/17 (11-01)  
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# FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 370

## Complete if Known

Application Number	09/818,228
Filing Date	March 27, 2001
First Named Inventor	Kent L. Christopher
Examiner Name	M. Patel
Group Art Unit	3761
Attorney Docket No.	1246/39(a)

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number: 04-1414  
Deposit Account Name: Dorr, Carson, Sloan & Birney PC

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$)

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Extra Claims Fee from below Fee Paid  
Total Claims Independent Claims Multiple Dependent  
-20\*\* = X =  
-3\*\* = X =  
Multiple Dependent =

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for <i>ex parte</i> reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (R CE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 370

## SUBMITTED BY

Name (Print/Type) Thomas S. Birney

Registration No. (Attorney/Agent)

30,025

## Complete (if applicable)

Telephone 303-333-3010

Signature

Thomas S. Birney

Date

April 17, 2002

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of  
Kent L. Christopher

Serial No. 09/818,228

Filed: March 27, 2001

For: METHOD AND APPARATUS FOR  
PHARYNGEAL AUGMENTATION OF  
VENTILATION

Examiner M. Patel  
Group Art Unit 3761

Assistant Commissioner for Patents  
Washington, D.C. 20231

#41  
OR  
4-21-02  
RECEIVED  
MAY 28 2002  
TOLSON MAIL ROOM

AMENDMENT

Applicant respectfully submits the following amendments and remarks in response to the Office Action dated January 31, 2002:

IN THE CLAIMS:

Please amend claim 1 as follows:

1. (twice amended) A nasopharyngeal catheter to deliver a flow of air/oxygen into a patient's distal nasopharynx or oropharynx to supplement a patient's spontaneous respiration, said nasopharyngeal catheter comprising:

a nasal catheter having a proximal end and a distal end adapted to extend through a patient's nose and into the patient's distal nasopharynx or oropharynx without obstructing the patient's spontaneous respiration;

a delivery tube adapted to extend below the patient's nostril connected to the proximal end of the nasal catheter; and